

IN THE SENATE

SENATE BILL NO. 1135

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE IDAHO BAIL ACT; AMENDING SECTION 19-2905, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 19-2913, IDAHO CODE, TO PROVIDE ADDITIONAL PROVISIONS RELATING TO THE SURRENDER OF DEFENDANT; AND AMENDING CHAPTER 29, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2924, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS HAVE THE RIGHT TO AVAIL THEMSELVES OF THE EXONERATION PROVISIONS OF THE IDAHO BAIL ACT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 19-2905, Idaho Code, be, and the same is hereby amended to read as follows:

19-2905. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Bail" means a monetary amount required by the court to release the defendant from custody and to ensure his appearance in court as ordered.

(2) "Bail agent" means a producer licensed by the state of Idaho in the line of surety insurance who is authorized by an insurer to execute or countersign undertakings of bail in connection with judicial criminal proceedings.

(3) "Bail bond" means a financial guarantee, posted by a bail agent and underwritten by a surety insurance company, that the defendant will appear as ordered.

(4) "Bench warrant" means a warrant issued by the court because the defendant failed to appear as ordered, failed to comply with a condition of release or the sureties are no longer sufficient.

(5) "Cash deposit" means payment in the form of United States currency, money order, certified check, cashier's check or such other form of payment as provided by the rules of the supreme court.

(6) "Certificate of surrender" means a certificate in a form approved by the supreme court that is completed by a surety insurance company or its bail agent, or a person who has posted a property bond or cash deposit, and provided to the sheriff of the county where ~~the~~ an action is pending for signature.

(7) "Conditions of release" means any reasonable restrictions, conditions or prohibitions placed upon the defendant's activities, movements, associations or residences by the court, excluding the court order requiring the defendant to appear in court.

(8) "Exoneration" means a court order directing the full or partial release and discharge from liability of the surety underwriting a bail bond or the person posting a cash deposit or a property bond.

(9) "Forfeiture" means an order of the court reciting that the defendant failed to appear as ordered and stating that bail is forfeited.

1 (10) "Order of recommitment" means an order of the court committing the
2 defendant back to the custody of the sheriff.

3 (11) "Person" means a natural person, legal corporation, limited lia-
4 bility corporation, partnership, sole proprietorship or any other business
5 entity recognized by the state of Idaho.

6 (12) "Property bond" means a financial guarantee approved by the court,
7 secured by property, real or personal, that the defendant will appear in
8 court as ordered.

9 (13) "Readmittance to bail" means an order of the court allowing the de-
10 fendant to post new bail following an order of revocation.

11 (14) "Recommitment" means the return of the defendant to the custody of
12 the sheriff following revocation or forfeiture of bail.

13 (15) "Reinstatement of bail" means an order of the court allowing the
14 defendant to be released on the same bail previously posted that has been or-
15 dered forfeited.

16 (16) "Revocation of bail" means an order by the court revoking the de-
17 fendant's release on bail.

18 (17) "Surety insurance company" means an admitted insurer authorized in
19 the line of surety pursuant to title 41, Idaho Code.

20 (18) "Surrender" means the voluntary surrender or delivery of the de-
21 fendant into the custody of the sheriff of ~~the~~ a county where ~~the~~ an action is
22 pending against the defendant.

23 SECTION 2. That Section 19-2913, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 19-2913. SURRENDER OF DEFENDANT. (1) At any time before forfeiture of
26 bail, a surety insurance company or its bail agent or person posting a prop-
27 erty bond or cash deposit may surrender the defendant to the sheriff of ~~the~~
28 a county where ~~the~~ an action is pending against the defendant. Upon the sur-
29 render of the defendant, the sheriff shall accept and incarcerate the defen-
30 dant in lieu of the bail originally set by the court.

31 (2) At the time of surrender of the defendant to the sheriff, whether
32 pre-forfeiture or post forfeiture of bail, the surety insurance company or
33 its bail agent or person posting a property bond or cash deposit shall pro-
34 vide the sheriff with a certificate of surrender.

35 (3) The surety insurance company or its bail agent or person posting
36 a property bond or cash deposit shall, within five (5) business days of the
37 surrender of the defendant, whether pre-forfeiture or post forfeiture of
38 bail, file with the court in which the action or appeal is pending the cer-
39 tificate of surrender and shall deliver a copy of the same to the attorney for
40 the state. The court shall thereupon order the bail exonerated.

41 (4) At any time before forfeiture of bail, a defendant may surrender
42 himself to the sheriff of the county where the action is pending. Upon sur-
43 render by the defendant, the sheriff shall accept and incarcerate the defen-
44 dant in lieu of the bail originally set by the court.

45 SECTION 3. That Chapter 29, Title 19, Idaho Code, be, and the same is
46 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
47 ignated as Section 19-2924, Idaho Code, and to read as follows:

1 19-2924. RIGHT TO AVAIL OF EXONERATION PROVISIONS. The surety insur-
2 ance company or its bail agent or person posting a property bond or cash de-
3 posit has the right to avail himself of the exoneration provisions of the
4 Idaho bail act for any reason sufficient to himself.